



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 08 2017

REPLY TO THE ATTENTION OF

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Paul Beckhusen
Director
Coldwater Board of Public Utilities WTP
One Grand Street
Coldwater, Michigan 49036

RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-16-ESA-010
Docket No. **CAA-05-2017-0011**

Dear Mr. Beckhusen:

Enclosed please find a copy of the fully executed Expedited Settlement Agreement (ESA). The ESA is binding on EPA and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other question about the program. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Hans", is written over a horizontal line.

Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

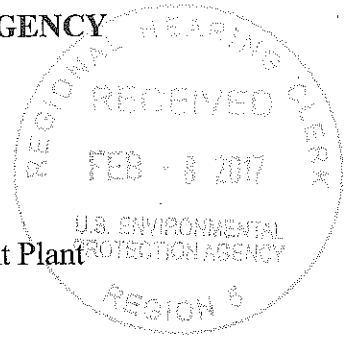
Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

**77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590**



DOCKET NO: RMP-16-ESA-010

CAA-05-2017-0011

**This ESA is issued to: Coldwater Board of Public Utilities Water Treatment Plant
at: 75 N. Waterworks Park Drive, Coldwater, Michigan 49036
for violations of Section 112(r)(7) of the Clean Air Act.**

EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and Coldwater Board of Public Utilities Water Treatment Plant ("Respondent"), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly "the Parties") have agreed that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. *See* 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 113(a)(3) and (d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA ("Complainant") has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3) and (d)(1), to issue a Final Order ratifying this ESA.

ALLEGED VIOLATIONS

On May 24, 2016, an authorized EPA representative conducted a compliance inspection of Coldwater Board of Public Utilities Water Treatment Plant, located at 75 N. Waterworks Park Drive, Coldwater, Michigan 49036 ("Facility") to determine its compliance with the Risk Management Plan ("RMP") regulations promulgated pursuant to Section 112(r) of the Act and set forth at 40 C.F.R. Part 68. Based on the May 24, 2016 inspection and documents submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.25(b)(1) Respondent failed to analyze the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity for determination of the worst-case release quantity.
2. 40 C.F.R. § 68.25(c)(1) Respondent failed to assume in the worst case release scenario that the quantity in the vessel was released as a gas over 10 minutes and that the release rate was the total quantity divided by 10 unless passive mitigation systems were in place.

3. 40 C.F.R. § 68.36(a) Respondent failed to review and update the offsite consequence analyses at least once every five years.
4. 40 C.F.R. § 68.39(a) Respondent failed to maintain records for the worst-case release scenario.
5. 40 C.F.R. § 68.39(b) Respondent failed to maintain records for the alternative release scenario.
6. 40 C.F.R. § 68.39(c) Respondent failed to maintain documentation of the estimated quantity release, release rate, and duration of release.
7. 40 C.F.R. § 68.39(d) Respondent failed to maintain records on the methodology used to determine distance to endpoints.
8. 40 C.F.R. § 68.39(e) Respondent failed to maintain records on the data used to estimate population and environmental receptors potentially affected.
9. 40 C.F.R. § 68.65(c)(1)(iv) Respondent failed to compile written process safety information pertaining to the technology of the process and that specifically addressed safe upper and lower limits for such items as temperatures, pressures, flow or compositions.
10. 40 C.F.R. § 68.65(c)(1)(v) Respondent failed to compile written process safety information pertaining to the technology of the process and that specifically addressed an evaluation of the consequences of deviations.
11. 40 C.F.R. § 68.65(d)(1)(v) Respondent failed to compile written process safety information that addressed ventilation system design.
12. 40 C.F.R. § 68.67(c)(5) Respondent failed to conduct a process hazard analysis that addressed facility siting.
13. 40 C.F.R. § 68.67(c)(6) Respondent failed to conduct a process hazard analysis that addressed human factors.
14. 40 C.F.R. § 68.67(f) Respondent failed to update and revalidate the process hazard analysis at least every five years.
15. 40 C.F.R. § 68.69(a)(2) Respondent failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with process safety information and that addressed operating limits.
16. 40 C.F.R. § 68.69(a)(3) Respondent failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with process safety information and that addressed safety and health considerations.
17. 40 C.F.R. § 68.69(a)(4) Respondent failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with process safety information and that addressed safety systems and their functions.
18. 40 C.F.R. § 68.69(c) Respondent failed to certify annually that operating procedures are current and accurate.

19. 40 C.F.R. § 68.71(c) Respondent failed to ascertain that each employee involved in operating a process has received and understood the training required and has failed to document the means used to verify that the employee understood the training.
20. 40 C.F.R. § 68.73(d)(3) Respondent failed to inspect process equipment at a frequency consistent with applicable manufacturers' recommendations and good engineering practices.
21. 40 C.F.R. § 68.79(a) Respondent failed to certify that they have evaluated compliance at least every three years to verify that procedures and practices developed are adequate and are being followed.
22. 40 C.F.R. § 68.83(a) Respondent failed to develop a written plan of action regarding the implementation of employee participation required.
23. 40 C.F.R. § 68.87(b)(1) Respondent failed to obtain and evaluate information regarding the contract owner or operator's safety performance and programs.

SETTLEMENT

In consideration of Respondent's full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of \$7,200.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$7,200 in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-16-ESA-010.)

This signed original ESA and a **copy of the check must be sent by certified mail to:**

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated there under, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: Paul H. Beckhusen
Name (print): PAUL H. BECKHUSEN
Title (print): DIRECTOR
Respondent

Date: 11-18-2016

FOR COMPLAINANT:

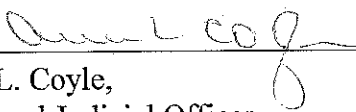
Douglas Ballotti
Douglas Ballotti, Acting Director
Superfund Division

Date: 1/17/2017

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Ann L. Coyle,
Regional Judicial Officer

Date: 2/7/15

Expedited Settlement Agreement

In the matter of: Coldwater Board of Public Utilities Water Treatment Plant

Docket Number: CAA-05-2017-0011

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, docket number CAA-05-2017-0011 which was filed on February 8, 2017 in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

Paul Beckhusen
Director
Coldwater Board of Public Utilities Water Treatment Plant
One Grand Street
Coldwater, Michigan 49036

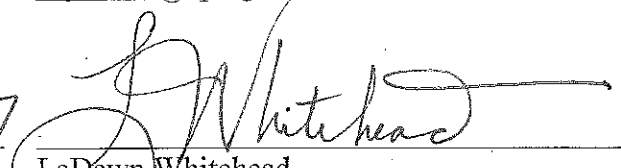
Copy by E-mail to
Attorney for Complainant:

Steven Kaiser
kaiser.steven@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

February 8, 2017

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7001 0320 0006 0188 0529